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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

15 Cr. 73 (RMB)

5 EVGENY BURYAKOV,

6 Defendant.

7 -----x

8 May 25, 2015

9 11:25 a.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 BY: STEPHEN J. RITCHIN

BRENDAN F. QUIGLEY

18 EMIL J. BOVE, III

Assistant United States Attorneys

19
20 WHITE & CASE

Attorneys for Defendant

21 BY: SCOTT E. HERSHMAN

DANIEL LEVIN

22 KIMBERLY A. HAVIV

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1 THE COURT: So, as you are aware, we are here today
2 for sentencing.

3 Some preliminary matters. First, we have, as usual, a
4 standby Russian language interpreter, who I don't believe
5 Mr. Buryakov has needed, but that person is here today.

6 It is okay, Mr. Hershman, to proceed in English?

7 MR. HERSHMAN: Yes, your Honor.

8 THE COURT: Unless and until you tell me, the
9 interpreter won't be interpreting. Is that the way you want to
10 do it?

11 MR. HERSHMAN: That's fine, yes.

12 THE COURT: Okay. So then I have been handed a
13 document for me to sign which is called an order of removal,
14 which I have signed incidentally. It is based, in large
15 measure, on a document that Mr. Buryakov and you, Mr. Hershman,
16 signed just a few minutes ago, which is called Defendant's Plea
17 Statement in Support of Judicial Removal. Both of those
18 documents speak for themselves -- they will be part of the
19 docket -- but I will just run through what they are.

20 So, in the Defendant's Plea Statement in Support of
21 Judicial Removal, Mr. Buryakov says that he has, among other
22 things, received a Notice of Intent to Request Judicial
23 Removal, which is dated May 18, 2016. So he has that notice.
24 He also says that he received Factual Allegations in Support of
25 Judicial Removal on or about May 18, and there he says he

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1 hereby waives his right to have the allegation served 30 days
2 prior to sentencing.

3 He goes on to say that his rights in connection with a
4 judicial removal proceeding were fully explained to him by,
5 among other persons, yourself, Mr. Hershman; and he says that,
6 after consulting with counsel and understanding the legal
7 consequences of doing so, that he knowingly and voluntarily
8 waives the right to the notice and hearing provided for in the
9 relevant section of 18 U.S.C. § 1228(c)(2); and that he further
10 waives any and all rights to appeal, reopen, reconsider, or
11 otherwise challenge this order.

12 He also goes on to say that he understands and
13 knowingly waives his right to a hearing before an immigration
14 judge or any other authority under the INA on the question of
15 his removability from the United States.

16 He goes on to say that he hereby admits that all of
17 the factual allegations set forth in the allegation section are
18 true and correct, and he goes on to concede that he is
19 removable from the United States as an alien who is present in
20 the United States in violation of a certain section of the INA
21 or any other law of the United States or whose nonimmigrant
22 visa has been revoked.

23 He goes on to say that he waives any and all rights he
24 may have to relief for protection from removal, deportation, or
25 exclusion, and he goes on to describe in more detail what those

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1 rights are.

2 He goes on to agree that there be the entry of a
3 stipulated judicial order of removal, which is the document
4 that I signed dated May 25, which I did after having reviewed
5 this document that I am summarizing now.

6 He consents to the introduction of this statement,
7 namely, his statement, as an exhibit in the record of these
8 judicial proceedings, and he also agrees to assist the United
9 States Immigration and Customs Enforcement in the execution of
10 his removal, and particularly in the procurement of any travel,
11 identity, or other documents necessary for that removal. And
12 he concedes that the entry of this judicial order of removal
13 renders him permanently inadmissible to the United States.

14 And, finally -- this is a summary -- he accepts a
15 written order issued by this court for his removal from the
16 United States and waives any and all rights to challenge any
17 provision of this agreement in any U.S. or foreign court or
18 tribunal.

19 Does anybody want to comment or supplement my summary
20 of either of these documents?

21 MR. HERSHMAN: No; it's fair.

22 THE COURT: Is that okay with you?

23 MR. RITCHIN: That's fine with the government.

24 THE COURT: So those documents, as I say, will be
25 exhibits to this proceeding, and now we are going to move to

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1 sentencing.

2 So how I usually do sentencing is I usually, and I
3 will, review what I consider to be the pertinent factors at 18
4 United States Code § 3553(a). This will be a little bit longer
5 than usual because the parties, that is to say, defense counsel
6 and the government, seem to have a different take on some of
7 the facts that have transpired here. We will deal with that
8 after I summarize those differences as best I can and allow you
9 to make comments about that. So that is stage one.

10 Stage two will be I will summarize what I am planning
11 to do, what sentence I am planning to impose.

12 And, finally, the third stage, I will impose the
13 sentence, at which point I will ask Mr. Buryakov to stand for
14 that.

15 And all along the way, counsel will have the
16 opportunity to comment.

17 In sentencing a defendant, following the changes as a
18 result of Supreme Court decisions in *Gall v. United States*,
19 that's a 2007 case; and also in *Kimbrough v. United States*,
20 another 2007 Supreme Court case; also *Booker, United States v.*
21 *Booker*, a 2005 Supreme Court case; and also as guided by
22 decisions of our Second Circuit Court of Appeals in the *Crosby*
23 case, 2005, and in the *Regalado* case, 2008, we know that the
24 United States Sentencing Guidelines are no longer mandatory
25 here -- as we will discuss in a few minutes, there is not a

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1 sentencing guideline -- but there is a sentence agreed to by
2 both the defense and the government.

3 What courts do in fashioning a sentence in light of
4 those Supreme Court decisions is to review factors found at 18
5 United States Code § 3553(a) and which, as I say, I have done
6 before coming out on the bench today. Those factors include
7 the nature and the circumstances of the offense or crime; the
8 history and characteristics of the defendant; the need for the
9 sentence to accomplish certain objectives, which are these,
10 reflecting the seriousness of the offense, promoting respect
11 for the law, providing a just punishment, affording adequate
12 deterrence to criminal conduct, protecting the public from
13 further crimes, providing the defendant with needed educational
14 or vocational training, medical care, or other correctional
15 treatment in the most effective manner. In doing that, I will
16 look at the kinds of sentences available, the kinds of
17 sentences and the sentencing range established in the
18 sentencing guidelines typically that would be relevant here.
19 There does not appear to be a sentencing guidelines for this
20 offense. I look at any policy statements issued by the United
21 States Sentencing Commission, if any there were that applied;
22 seek to avoid unwarranted sentence disparities among similarly
23 situated defendants; and, in appropriate cases, provide for
24 restitution.

25 So, as I say preliminarily, there does not appear to

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1 be an applicable guideline range for this offense, nor is there
2 what we call an offense level. As far as criminal history
3 category is concerned, it appears to be I. There are no
4 reported prior offenses.

5 When you review these factors as they apply to this
6 case, the following stands out: On or about March 11, 2016,
7 Mr. Buryakov pled guilty to conspiring to act in the United
8 States as an agent of a foreign government, in this case the
9 Russian Federation, without prior notification to the United
10 States Attorney General. This plea was accepted by me on that
11 date, March 11, 2016.

12 Mr. Buryakov pled guilty pursuant to a plea agreement,
13 which was dated March 9, 2016. Indeed, it's my recollection
14 that the plea came about as we were approaching a trial date in
15 this matter which was obviated by the plea and plea agreement.

16 In the plea agreement, both the defense and the
17 government agreed that the appropriate sentence in this case is
18 30 months of imprisonment. The parties also agreed that the
19 applicable range for any fine is \$10,000 to \$100,000. The
20 parties also agreed that neither what we call a downward nor an
21 upward departure from the stipulated sentence of 30 months'
22 imprisonment was warranted and that neither party would seek
23 such a departure or suggest to the probation office or to the
24 court that it consider such a departure or adjustment in
25 sentence. The parties further agreed that they would not seek

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1 a sentence other than this stipulated sentence of 30 months,
2 nor would they suggest in any way that the probation or the
3 court consider a sentence other than the stipulated sentence.

4 Mr. Buryakov also agreed that his entry of a guilty
5 plea to the charged offense authorized the sentencing court to
6 impose a sentence up to and including the statutory maximum
7 sentence, which is five years of imprisonment.

8 Mr. Buryakov is 41 years of age. He is married, has
9 two minor children. He is, as I mentioned before, a citizen of
10 the Russian Federation. He has reported some medical issues
11 related to vision. He attended school in Russia, where he
12 received what I interpret to be the United States equivalent of
13 a bachelor's degree. He is fluent in English, although, as we
14 said at the outset, in an abundance of caution, I have provided
15 for a Russian interpreter to be present throughout these
16 proceedings.

17 He is employed by what we are referring to as VEB --
18 the full name is Vnesheconombank -- and has been from December
19 2002 through January 2015.

20 The probation department states that Mr. Buryakov
21 completed a financial affidavit in which he reported assets he
22 owns in Russia. Probation noted, however, that in February
23 2015, Mr. Buryakov transferred \$20,000 to a jointly held bank
24 account in Russia and that in April 2015, he possessed a
25 Cadillac SRX which was auctioned for \$17,000 cash, and the

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1 \$17,000 cash was transferred to an individual bank account in
2 Russia.

3 Probation has stated that defendant said he was a 25
4 percent shareholder in a residential apartment in Russia which
5 is valued at \$50,000 according to the probation report.
6 Probation also said it was unclear to them whether the \$50,000
7 is the value of Mr. Buryakov's share or the value of the
8 apartment overall.

9 Defense -- incidentally, this will come up as an
10 issue -- opposes the imposition of a fine and states that
11 Mr. Buryakov has no income, earning capacity, or financial
12 resources in the United States, and that any fine, therefore,
13 would impose a substantial hardship on him.

14 The government notes that, pursuant to United States
15 Sentencing Guidelines 5E1.2(a), the court shall impose a fine
16 in all cases except where the defendant establishes he is
17 unable to pay and is not likely to become able to pay any fine.

18 The government adds that defendant is a college
19 graduate who worked as a banker until his arrest and earned a
20 monthly salary of \$17,000, or approximately \$204,000 per year;
21 and that if the agreed-upon sentence is imposed, he will be 42
22 years old when he is released, and this is a quote from the
23 government "presumably with decades of earning potential ahead
24 of him."

25 The presentence investigation report notes that

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1 Mr. Buryakov objects to some information contained throughout
2 the presentence investigation report relating to references
3 that he is or is alleged to be an agent of the SVR. Probation
4 states that the information it has included in the offense
5 conduct section of its report was provided by the government
6 and, according to the government, is accurate.

7 According to probation, defense counsel advised
8 probation that, "Under the federal rules, the court need not
9 resolve these factual disputes because the government has
10 agreed that 30 months is the appropriate sentence, even
11 assuming all of these allegations are true."

12 By submission dated May 11, 2016, the defense states,
13 among other things, that the agreed-upon sentence is 30 months
14 and that it is "fully supported by sentencing factors under 18
15 United States Code § 3553, which govern in the absence of an
16 applicable guideline sentence."

17 Defense counsel also states that "the agreed sentence
18 is appropriate even assuming, *arguendo*, the government's most
19 serious factual allegations, namely, that Mr. Buryakov was an
20 SVR agent."

21 The defense states that the original indictment and
22 complaint presented Mr. Buryakov as an alleged agent of the
23 Russian intelligence service -- what I have been referring to
24 as "SVR," that is the Russian intelligence service -- who
25 engaged in spying over an extended period of time in the United

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1 States, and that the superseding indictment in this matter
2 removed any references to the SVR, defendant's status as an SVR
3 agent, or defendant's use of tradecraft of any kind.

4 In his plea allocution, Mr. Buryakov stated the
5 following, I quote it here again because of this seeming
6 disagreement between the defense and the government.

7 Mr. Buryakov stated, "I knowingly agreed with Igor Sporyshev,
8 who I knew to be an official of the Russian Federation, namely,
9 an official with the New York Office of the Trade Mission of
10 the Russian Federation, that I would take certain actions in
11 the United States at Mr. Sporyshev's direction without my
12 having provided notification as an agent of the Russian
13 Federation, as required, to the U.S. Attorney General. In
14 furtherance of said agreement, in the Southern District of New
15 York, on or about May 21, 2013, I used a telephone to speak
16 with Mr. Sporyshev about information that Mr. Sporyshev
17 wanted." That's a section of the plea transcript that I have
18 quoted.

19 Defense argues in its submission that the government's
20 case against Mr. Buryakov changed markedly since the complaint
21 in this case was filed and that the presentence investigation
22 report incorrectly accepted the original complaint at face
23 value and ignored subsequent pleadings and actual evidence.

24 The defense also submitted letters. By the way, in
25 that connection, I think just today another letter on

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1 Mr. Buryakov's behalf was submitted from his employer, his boss
2 at the bank. These are letters from Mr. Buryakov's family and
3 a friend, Reverend Ioann Lapidus, archpriest of the Russian
4 Orthodox Church, in support of Mr. Buryakov.

5 Mr. Buryakov's wife has submitted a letter. In that
6 letter she apologizes for her English, which of course is not
7 her first language, and that letter, I think, is accompanied by
8 a Russian language counterpart.

9 Defendant's children submitted a joint letter in
10 English requesting that their father return home soon.

11 Mr. Buryakov's parents submitted a joint letter
12 describing what a wonderful son he has been to them and how he
13 had been described by his teachers as naturally gifted at
14 learning foreign languages, especially English. His parents
15 also noted that Mr. Buryakov has two university degrees. In
16 her letter, defendant's mother explains that she had been
17 residing in Tunisia with her husband, who is employed with the
18 Russian Embassy in Tunisia, but that she returned to Russia to
19 take care of defendant's children, as Mr. Buryakov's wife had
20 to work full-time. I believe we have previously learned that
21 she works as an attorney.

22 So here, the reference I made before to some
23 disagreement, here is what the government has to say. The
24 government submission is dated May 18, 2016. There is no
25 disagreement as to the sentence. They, both defense and the

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1 government, seek the agreed-to 30-month sentence of
2 incarceration. But, among other things, the government notes
3 that Mr. Buryakov in his sentencing submission has attempted, I
4 guess you would say, to minimize the seriousness of his offense
5 conduct and has not devoted a word in his submission to "any
6 expression of remorse or contrition for his crime." That's
7 from the government's submission.

8 The government goes on to say that, "As an initial
9 matter, the defendant admitted to conspiring with codefendant
10 Igor Sporyshev to act as an agent of the Russian Federation in
11 the United States. There can be no serious question that
12 Sporyshev was an SVR agent." The government also states,
13 "Repeatedly and over a significant period of time, the
14 defendant, Mr. Buryakov, responded to taskings from Sporyshev.
15 The defendant also made at least one proposal to Sporyshev with
16 respect to actions that the SVR should take. The defendant
17 also took direction from Sporyshev about with whom he should
18 meet in the United States while gathering information of value
19 to Russia. Moreover" -- this is, again, all from the
20 government's submission -- "the defendant's coconspirator
21 Podobnyy expressly described the defendant as an employee of
22 the SVR," from the government's submission.

23 The government goes on to say that "the defendant's
24 argument that the court should conclude that the government was
25 not going to approve the defendant's use of espionage

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1 tradecraft, because the case agent who swore to the allegations
2 in the complaint was allegedly deleted from the case, is both
3 wrong and based on false statements. The government intended
4 throughout to call the case agent as a fact witness at trial
5 and never suggested otherwise."

6 And additionally, the government states "The
7 defendant's speculation that the differences between the
8 initial and superseding indictments reflect the government's
9 doubt about allegations in prior charging documents about the
10 SVR, the defendant's status as an agent of the SVR, and his use
11 of tradecraft is similarly baseless."

12 Finally, the government states, "In sum, the
13 defendant's arguments about the seriousness of this conduct are
14 meritless. His decision to make those meritless arguments,
15 while at the same time expressing no remorse at all for the
16 crime to which he has pled guilty, sheds light on the
17 characteristics of the defendant."

18 And the government also states that the agreed-upon
19 sentence is fully warranted and should be imposed.

20 So the question I would ask, in light of this
21 disagreement, which is descriptive -- there is no disagreement
22 with respect to the sentence -- is whether either the
23 government or defense counsel wishes to have me conduct a
24 hearing to further reconcile those differences, or is it
25 adequate just to leave the record as I have described it and as

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1 they may wish to orally supplement it?

2 MR. HERSHMAN: From our perspective there is no need
3 for a hearing, your Honor. As you indicated earlier, we
4 believe there are no factual disputes that need to be resolved
5 today at all.

6 MR. RITCHIN: Your Honor, the government stands by its
7 description of the facts, but I think in light of the
8 agreed-upon sentence, which has been agreed upon by both
9 parties, the court could proceed.

10 THE COURT: Okay.

11 I have also reviewed the presentence investigation
12 report in this case which is dated May 18, 2016, together with
13 the addendum of that date and the sentencing recommendation of
14 that date, and also correspondence dated, as I alluded to
15 before, May 11, 2016 from Mr. Hershman and May 18, 2016 from
16 AUSA Bove.

17 Mr. Hershman, I would ask you if you and Mr. Buryakov
18 have had the opportunity to read and discuss these presentence
19 materials?

20 THE DEFENDANT: Yes, your Honor, we have.

21 THE COURT: Mr. Buryakov, you went over those
22 materials with Mr. Hershman?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And do either of you have any further
25 objections other than I may have noted or you have in your

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1 submissions to the presentence report?

2 MR. HERSHMAN: No, your Honor, none.

3 THE COURT: Mr. Buryakov?

4 THE DEFENDANT: No.

5 THE COURT: How about the government?

6 MR. RITCHIN: No, your Honor.

7 THE COURT: So our practice is to return that report
8 to probation, which I do.

9 It is my intention to honor the parties' agreement and
10 sentence at 30 months. I am happy to hear at this time, if
11 they wish to be heard, from Mr. Hershman, Mr. Buryakov, and the
12 government.

13 MR. HERSHMAN: We have nothing to add to our
14 submissions, your Honor. Thank you very much.

15 THE COURT: You bet.

16 Mr. Buryakov, anything further?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Anything from the government?

19 MR. RITCHIN: Your Honor, the court has summarized the
20 government's position and the facts which we think make the
21 sentence fully warranted, so I won't burden either the record
22 or the court's time repeating them.

23 THE COURT: I take it both sides are content with the
24 summaries as I have presented them?

25 MR. HERSHMAN: Yes.

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1 MR. RITCHIN: Yes, your Honor.

2 THE COURT: Okay. Then I am going to adopt the
3 findings of fact in the presentence investigation report,
4 unless there is further objection from defense counsel first?

5 MR. HERSHMAN: Nothing more than what we have already
6 submitted.

7 THE COURT: Or Mr. Buryakov.

8 THE DEFENDANT: No, your Honor?

9 THE COURT: Or Mr. Ritchin.

10 MR. RITCHIN: The government has no objection.

11 THE COURT: Let me preview the sentence, and then I
12 will impose it, just to give you an opportunity to be heard
13 further.

14 I intend to impose the sentence as stated of 30 months
15 of incarceration. As I have said, there is no guideline range
16 here, no offense level. It appears to be a criminal history
17 category of I. This is my practice. I do intend to impose a
18 term of supervised release of three years following
19 imprisonment, although I recognize that, and based on what we
20 said at the outset, no supervision will come into play likely
21 in this matter because Mr. Buryakov will be deported.

22 If there were any supervision here that were to come
23 into play, it would be subject to the mandatory conditions that
24 Mr. Buryakov not commit another federal, state, or local crime;
25 that he not illegally possess a controlled substance; that he

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1 not possess a firearm, dangerous weapon, or destructive device;
2 and that at the refrain from any unlawful use of a controlled
3 substance. By the way, I am not suggesting that there is a
4 controlled substance issue here. These are mandatory
5 conditions.

6 The defendant shall refrain from any unlawful use of a
7 controlled substance, he shall submit to one drug test within
8 15 days of placement on any supervision, supervised release,
9 and at least two unscheduled drug tests thereafter as may be
10 directed by the probation officer.

11 In addition, he is required to comply with what are
12 called standard conditions 1 through 13, plus these special
13 conditions: that if he were to participate in supervision in
14 the United States, that would be in his district of residence.
15 If he were released in the United States, which is unlikely, he
16 would be required to report to probation within 48 hours of any
17 release. He will be required to cooperate with the Department
18 of Homeland Security, Bureau of Citizenship and Immigration
19 Services in connection with any proceedings to determine his
20 status in the United States and abide by their rules and
21 regulations. That aspect may have been superseded by the order
22 that I signed earlier today.

23 There is an issue about a fine. I am happy to hear
24 from people on this. As you heard, there is a disagreement
25 between the government and the defense. It is my intention to

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1 impose a fine in the amount of \$10,000 payable within six
2 months of release from custody. You will recall that the
3 parties stipulated that the fine range in this case was 10 to
4 \$100,000. The probation department recommended a \$10,000 fine.
5 I am going along with that recommendation -- I do think that's
6 appropriate -- although I have given Mr. Buryakov six months to
7 pay the fine as opposed to 60 days suggested by probation.

8 I do not intend to impose restitution. There is no
9 victim within the meaning of 18 United States Code § 3663 or
10 18 U.S.C. 3663(a). In considering the financial penalties --
11 in this case, the fine -- I have considered the factors set
12 forth at 18 United States Code § 3663(a)(1)(B)(i) or 18 U.S.C.
13 § 3664. Those factors typically apply to restitution, but I
14 have used them as a guide to come up with the analysis with
15 respect to fine, just as a guide.

16 I also intend to impose a \$100 special assessment,
17 which is mandatory and due immediately under 18 United States
18 Code § 3013.

19 Briefly, the reasons for that sentence are,
20 notwithstanding that there is no sentencing guidelines offense
21 level, that there does appear to be a criminal history category
22 of I and that, as stated, there is no guideline range. In lieu
23 of that, the parties have agreed, by plea agreement dated March
24 9, 2014, that 30 months' imprisonment is the appropriate
25 sentence; and I agree that that is the appropriate sentence

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1 given the factors at 18 U.S.C. § 3553(a), including the
2 seriousness of the offense, the need for punishment and
3 deterrence, the nature and circumstance of the offense, the
4 history and characteristics of Mr. Buryakov. I do think this
5 sentence reflects the seriousness of the offense. I think it
6 helps promote respect for the law, provides a just punishment
7 affords adequate deterrence, and helps protect the public.

8 So that's the proposed sentence. If defense counsel,
9 Mr. Buryakov, or the government wishes to be heard before I
10 actually pronounce the sentence, this would be a good time.

11 MR. HERSHMAN: Your Honor, simply, on behalf of the
12 defense, we would ask the court, if it is appropriate now, that
13 Mr. Buryakov would like to be recommended to Fort Dix.

14 THE COURT: I will come to that.

15 MR. HERSHMAN: Okay. Then I will wait.

16 THE COURT: When that time comes, I will make that
17 recommendation.

18 MR. HERSHMAN: Premature. I thought it may be
19 premature. It was. Other than that, no.

20 THE COURT: Okay. What about Mr. Buryakov, anything?

21 THE DEFENDANT: No.

22 THE COURT: Or how about the government?

23 MR. RITCHIN: Nothing from the government.

24 THE COURT: Then I would ask Mr. Buryakov to stand.

25 I will say, the one difference, as I pointed out, a

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1 difference between the parties about the fine, to me one of the
2 central factors was his earning power historically -- there
3 didn't seem to be any dispute that he had been earning \$204,000
4 a year -- also his relatively young age and his potential
5 earning power going forward, so I think that that fine of
6 \$10,000, at the low end of the guideline range, is totally
7 appropriate.

8 So having considered the factors at 18 United States
9 Code § 3553(a), it is my judgment that defendant, Evgeny
10 Buryakov, be committed to the custody of the Bureau of Prisons
11 to be imprisoned for a term of 30 months with, of course,
12 credit for time already served. That would be followed by a
13 period of supervised release of three years, assuming that any
14 supervision in the United States were to happen. It seems
15 unlikely. And that would be subject to those mandatory and
16 special conditions that I mentioned before and incorporate here
17 by reference. A fine of \$10,000 payable within six months of
18 his release from custody, no restitution, a \$100 special
19 assessment which is mandatory and due immediately.

20 As for the reasons for the sentence, I mentioned them
21 earlier, and particularly with reference to the factors at
22 18 U.S.C. § 3553(a), and I incorporate that discussion here.

23 I would ask at this time does either counsel know of
24 any legal reason why the sentence should not be imposed as so
25 stated?

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1 MR. HERSHMAN: No, your Honor.

2 MR. RITCHIN: No, your Honor.

3 THE COURT: Then I hereby order the sentence to be
4 imposed as so stated.

5 Mr. Buryakov, to the extent that you have not already
6 waived your appeal rights -- and of course now I am referring
7 to the plea agreement dated March 9, 2016, which in fact
8 includes a series of waivers of appeal rights as follows, in
9 that plea agreement, which I think was actually signed on March
10 11, 2016, you agree that you would not file a direct appeal,
11 you also waived your right to bring what's called a collateral
12 challenge, including but not limited to an application under 28
13 United States Code § 2255 and/or 2241. You also waived your
14 right to seek a sentence modification under 18 U.S.C. § 3582(c)
15 of any sentence that is at or below the stipulated sentence of
16 30 months of imprisonment, and this sentence is exactly that
17 number, so these waivers apply.

18 You also waived your right to appeal any term of
19 supervised release that is less than or equal to the statutory
20 maximum of three years. Again, that waiver applies because the
21 term of supervision is three years.

22 You also agree not to appeal any fine that is less
23 than or equal to \$100,000, and that fine that I imposed is much
24 less than that, so that waiver applies.

25 You also agreed not to challenge your conviction or

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1 sentence on direct appeal or through litigation under 28 United
2 States Code § 2255 and/or 2241 on the basis of any actual or
3 perceived adverse immigration consequence, including a
4 deportation that might result from your guilty plea and
5 conviction and sentence.

6 But to the extent that there are other rights that I
7 have not mentioned or thought of, I notify you that you have
8 the right to appeal those. If you are unable to pay the costs
9 of an appeal, you have the right to apply for leave to appeal
10 *in forma pauperis*; and, if you request, the clerk of court will
11 prepare and file a notice of appeal on your behalf immediately.

12 So I would ask you, Mr. Buryakov, if you understand
13 your appeal rights, including the waivers of appeal that I have
14 summarized.

15 THE DEFENDANT: Yes, I do, your Honor.

16 THE COURT: Are there any aspects of the case the
17 government was seeking to dismiss or resolve at this time?

18 MR. RITCHIN: Yes, your Honor. We would like to move
19 to dismiss the open counts at this time.

20 THE COURT: That application is granted.

21 Starting with the government, did you wish to add
22 anything to today's proceeding?

23 MR. RITCHIN: No, your Honor.

24 THE COURT: Mr. Hershman, if you want to make that
25 recommendation now, I am happy to entertain it.

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1 MR. HERSHMAN: Okay, yeah, I will try again.

2 Your Honor, we would ask that the court recommend to
3 the Bureau of Prisons that Mr. Buryakov serve the remaining
4 sentence at Fort Dix.

5 THE COURT: I will make that recommendation. You and
6 Mr. Buryakov know that the court can only recommend in such a
7 situation, but I am happy to include that.

8 MR. HERSHMAN: Thank you.

9 THE DEFENDANT: Thank you.

10 THE COURT: All right. Well I think, then, that
11 concludes our work for today, and the sentence is concluded.

12 Thanks very much. Nice to see you.

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